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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,815	06/02/2006	Dirk Gandolph	PD030124	1952
24498 7590 01/22/2010 Robert D. Shedd, Patent Operations THOMSON Licensing LLC P.O. Box 5312 Princeton, NJ 08543-5312				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/581,815

**Applicant(s)**

GANDOLPH ET AL.

**Examiner**

VANEL FRENEL

**Art Unit**

3687

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/13/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**Notice to Applicant**

1. This communication is in response to the remarks filed on 10/13/09. Claims 1-6, 9 and 11-14 are pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 9 and 11-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Gordon et al. (2002/0013944) in view of Dinallo et al. (5,929,857).

As per claim 1, Gordon discloses a method for generating an interactive electronic menu on a display, the menu comprising menu buttons wherein a menu button may be in a deselected, selected or activated state, and the menu being coded into a menu data segment-comprising: retrieving a data segment having encoded therein at least "graphic" data for a first and a second menu button and data connecting the first and the second button by a parent-child relationship, wherein the second menu button being a child of the first menu button can only be selected while the first menu button is selected (See Gordon, Figs. 5-6; Page 5, Paragraphs 0047-0049); and, wherein at least one button command is associated to the first menu button and coded into said

menu data segment, the button command being usable for modifying a visibility of at least the second menu button (See Gordon, Figs. 5-6; Page 4, Paragraphs 0036-0038).

Gordon does not explicitly disclose generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed; and upon selection of the first menu button and execution of said button command, modifying said interactive menu such that the first and the second menu button are displayed simultaneously.

However, this feature is known in the art, as evidenced by Dinallo. In particular, Dinallo suggests that generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed (See Dinallo, Figs. 4-7; Col. 1, lines 12-67; Col. 9, lines 17-67); and upon selection of the first menu button and execution of said button command, modifying said interactive menu such that the first and the second menu button are displayed simultaneously (See Dinallo, Figs. 4-7; Col. 8, lines 12-67; Col. 9, lines 17-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Dinallo within the system of Gordon with the motivation of providing a DVD system includes a graphic user interface which is constructed during information playback from commands and attributes extracted from the DVD data stream. In particular, the extracted commands are presented to an intelligent DVD browser engine which gathers information about the shape and location of a user menu from the navigation data in the DVD data stream. The browser engine operates with a database containing sets of predefined images which depict controls,

buttons and other graphic images that form part of the user menu (See Dinallo, Col.3, lines 24-33).

As per claim 2, Gordon discloses method wherein the second menu item is only visible when the first menu button is in the selected state (See Gordon, Page 4, Paragraphs 0037-0039).

As per claim 3, Gordon discloses method wherein the second menu button is not selectable (See Gordon, Page 5, Paragraph 0046).

As per claim 4, Gordon discloses method wherein the menu data segment contains at least for the first and the second menu button neighbour information, the neighbour information defining which other menu button may be selected when said first or second menu button is in the selected state (See Gordon, Page 5, Paragraphs 0043-0045).

As per claim 5, Gordon discloses method wherein the menu relates to the content of a removable storage medium, and the menu data segment is stored on the respective removable storage medium (See Gordon, Fig.4; Page 2, Paragraphs 0026-0027).

As per claim 6, Gordon discloses method wherein "graphic data of" said other menu data item and is also coded into said menu data wherein the visibility also comprises the colour look- up table relating to a menu item (See Gordon, Page 3, Paragraphs 0032-0038).

As per claim 9, Gordon discloses method wherein a third menu button is connected to the second menu button by a parent-child relationship, wherein the third menu button being a child of the second menu button can only be selected when the second menu button is selected, and wherein the first, the second, and the third menu button are coded into the same data segment (See Gordon, Page 5, Paragraphs 0047-0049).

As per claim 11, Gordon discloses method wherein the parent-child relationship within the menu data segment is indicated by a unidirectional or bi- directional link or identifier being retrieving from the menu data segment (See Gordon, Page 4, Paragraph 0041).

As per claim 12, Gordon discloses apparatus for generating an interactive electronic menu on a display, the menu comprising menu buttons, wherein a menu button may be in a deselected, selected or activated state, and the menu being coded into a menu data segment, comprising: means for retrieving a data segment having encoded therein at least "graphic" data for a first and a second menu button and data

connecting the first and the second menu button by a parent-child relationship, wherein the second menu button being a child of the first menu item can only be selected while the first menu button is selected (See Gordon, Page 5, Paragraphs 0043-0048); and , wherein at least one button command is associated to the first menu button and coded into said menu data segment (See Gordon, Page Figs 5-6; Page 4, Paragraphs 0036-0038); and means for modifying a visibility of at least the second menu button (See Gordon, Fi,qs.5-6; Page 4, Paragraphs 0036-0038).

Gordon does not explicitly disclose means for generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed; and means for modifying said interactive menu, upon selection of the first menu button and execution of said button command, such that the first and the second menu button are displayed simultaneously.

However, this feature is known in the art, as evidenced by Dinallo. In particular, Dinallo suggests that means for generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed (See Dinallo, Figs.4-7; Co1.8, lines 12-67; Co1.9, lines 17-67); and means for modifying said interactive menu, upon selection of the first menu button and execution of said button command, such that the first and the second menu button are displayed simultaneously (See Dinallo; Figs.4-7; Co1.8, lines 12-67; Co1.9, lines 17-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Dinallo within the system of Gordon with the motivation of providing a DVD system includes a graphic user interface which is

constructed during information playback from commands and attributes extracted from the DVD data stream. In particular, the extracted commands are presented to an intelligent DVD browser engine which gathers information about the shape and location of a user menu from the navigation data in the DVD data stream. The browser engine operates with a database containing sets of predefined images which depict controls, buttons and other graphic images that form part of the user menu (See Dinallo, Co1.3, lines 24-33).

As per claim 13, Dinallo discloses apparatus wherein the second menu button is rendered as a new graphic element on the display, wherein the newly rendered button supersedes and erases all other buttons rendered before on the same display position and wherein the remainder of the display is not re-rendered (See Dinallo; Figs.4-7; Co1.8, lines 12-67; Co1.9, lines 17-67).

As per claim 14, Dinallo discloses apparatus wherein the second menu button is rendered as a new graphic element on the display, wherein the newly rendered button supersedes and erases all other buttons rendered before on the same display position and wherein the remainder of the display is not re-rendered (See Dinallo; Figs.4-7; Co1.8, lines 12-67; Co1.9, lines 17-67).

### **Response to Arguments**



4. Applicant's arguments filed on 10/13/09 with respect to claims 1-6, 9 and 11-14 have been considered but they are not persuasive.

(A) At pages 3-8 of the remarks filed on 10/13/09, Applicant's argues the followings:

(i) Gordon fails to explicitly disclose generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed; and upon selection of the first menu button and execution of said button command, modifying said interactive menu such that the first and second menu button are displayed simultaneously.

(ii) The combination of Gordon and Dinallo does not render the claims 1 and 12 obvious.

(B) With respect to Applicant's first argument, the Examiner respectfully submitted that He relied upon the teaching of Dinallo (See Fig.4, Fig.8; Col.9, lines 18-67; Col.10, lines 53-64) which correspond to Applicant claimed feature. Therefore, Applicant argument is not persuasive and the rejection is hereby sustained.

(C) With respect to Applicant's second argument, the Examiner respectfully submitted that obviousness is not determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977F. 2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir.1992); *In re Piaseckii*, 745 F.2d 1468, 1472, 223 USPQ 785,

788 (Fed. Cir.1984); In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a prima facie case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention (See paper number 5). Note, for example, in the instant case, the Examiner respectfully notes that each and every motivation to combine the applied references are accompanied by select portions of the respective reference(s) which specially support that particular motivation and/or an explanation based on the logic and scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a holding of obviousness. As such, it is not seen that the Examiner's combination of references is unsupported by the applied prior art of record. Rather, it is respectfully submitted that explanation based on the logic and scientific reasoning of one of ordinarily skilled in the art at the time of the invention that support a holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner, Ex parte Levengood, 28 USPQ2d 1300(Bd. Pat. App. & Inter., 4/22/93). Therefore, the combination of references is proper and the rejection is maintained.

In addition, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is

respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, In re Bozek, 163 USPQ 545 (CCPA 1969). Therefore, Applicant's argument is not persuasive.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Primary Examiner, Art Unit 3687

January 17, 2010